

**STATE OF NEW JERSEY
OFFICE OF THE CHILD ADVOCATE**

FINDINGS: MATTER OF E.S.

On October 14, 2003, the Child Advocate announced an investigation into the conditions of care for children detained in juvenile detention centers, including overcrowding, access to mental health services and the overall quality of services. The OCA was motivated to conduct its investigation due in part to public reports of detention overcrowding and the tragic suicide of 17 year old E.S. on May 10, 2003, while he was detained at the George W. Herlich Juvenile Detention Center, commonly referred to as the Union County Juvenile Detention Center, which is located on the top level of a parking garage in Elizabeth, New Jersey.

The JJC, beginning in 1998, raised a number of concerns about practices at the Union County Juvenile Detention Center, with the Union County Board of Chosen Freeholders, the county's Department of Human Services, and with the facility's Superintendent. Although the JJC expressed concerns about the facility's structural shortcomings and space limitations, the JJC primarily focused on practices which led to prolonged periods of time where juveniles were forced to remain in their rooms. The three practices the JJC repeatedly called into question were: (1) separating the juveniles into groups or "splits" and allowing the "splits" out of their rooms on a rotating basis; (2) "locking down" the juveniles in their rooms for excessive periods of time; and (3) routinely isolating new juveniles during the first twenty four hours after their admission. The Manual of Standards states, "routine isolation, pending medical examination, usually ordered when no physician or registered nurse is available, is psychologically and medically unsound and **shall not be practiced** [emphasis added]."¹

In June 2000, the JJC noted the detention center's use of routine isolation, along with additional concerns, and requested a Corrective Action Plan within thirty (30) days. In an attachment to its June 2000 letter, the JJC noted, "it has been shown that the first few hours of confinement are the most critical in regard to newly admitted residents acting out on suicidal

¹ N.J.A.C. 13:92-5.11(i)

ideation. The newly admitted resident should, whenever possible, be in the population engaged in program activities, acclimating himself to confinement.” In November 2000, four months later, the facility’s superintendent, Darrell Hatchett, in a letter to the JJC, informed the agency that he had discontinued the practice of routinely isolating new residents. However, in August 2002 and January 2003, the JJC learned that the detention center was still routinely locking down all confined youth and grouping the juveniles into “splits,” contrary to directive issued by the JJC in June 2000, ordering that both practices be discontinued.

In a March 13, 2003 letter from Frank Guzzo, Director of Union County’s Department of Human Services to JJC Executive Director, Howard Beyer, Mr. Guzzo informed Mr. Beyer of the corrective steps underway at the detention center. Mr. Guzzo stated that Mr. Hatchett would rescind his policy, which authorized “splits,” and the facility would “make every attempt to operate a detention program that meets the requirements set forth in the Manual of Standards.” In their response dated April 3, 2003, little more than a month before E.S. committed suicide, then Acting Attorney General Peter Harvey and Howard Beyer, the Executive Director of the JJC, advised the county that it must immediately cease the practice of “splits” and “lock downs.” In an April 4, 2003 Union County Juvenile Detention Memorandum, Mr. Hatchett advised his Senior Juvenile Detention Officers (JDO) that the practice of “splits” would only be in effect when the facility population exceeded proper staff to resident ratios and upon the approval of Mr. Hatchett or Supervising JDO Burgos. Mr. Hatchett rescinded a prior directive that mandated “splits” when the population exceeded forty-five (45) youth in the facility’s main area

None of the state’s admonitions, nor the county’s prior representations, led the county to change its practices on May 10, 2003, when at approximately 1:10 a.m., E.S. was admitted to the Union County Juvenile Detention Center after he was arrested by officers from the Elizabeth

Police Department on a bench warrant that was issued earlier in the day when E.S. failed to appear for his court date. As part of the intake process, he met with a JDO, who conducted a Health Screening Record. The Health Screening Record consisted of a series of yes/no questions, two of which attempted to assess a youth's risk of attempting suicide. Those questions, "Does the youth appear to be suicidal [i.e. despondent, depressed, etc.]" and "Does the youth appear to be irrational or mentally ill?" directed the JDO to make an assessment based on his or her visual observation. In a separate section of the Health Screening Record, E.S. was asked to self-report whether "[He/she had] ever thought about or attempted suicide?" All three questions were answered in the negative.

Shortly after completing the intake process, at approximately 2 a.m., E.S. was placed in a room with two other youth. Contrary to Mr. Hatchett's November 2000 representation that his facility would no longer routinely isolate youth during the first 24 hours after admission, E.S. was on "lockdown" for the first twenty-four (24) hours following his admission, and with a few exceptions, was not permitted out of his room. E.S. met with the facility's nurse shortly before 10 a.m., for a medical examination. The facility's Juvenile Medical Examination form, which is completed by the facility nurse, does not evaluate a youth's mental health history.

E.S. returned to his room at approximately 10:45 a.m. His roommates returned to the room at 12:00 p.m., but were permitted to leave again when their "split" was allowed out at 1:30 p.m. E.S. remained in the room alone. At approximately 2:45 p.m., almost thirteen hours (13) after being admitted into the facility, detention center staff discovered E.S. hanging from an exposed sprinkler head in his room, which had existed as an unabated safety hazard first noted on November 15, 2002, almost six (6) months before E.S. was placed in the same room. On November 15, 2002, a JDO completed a facility Juvenile Incident Report, noting that the

sprinkler was missing its cover, and forwarded his report to the Building and Grounds Department. However, the sprinkler head was apparently damaged, more than a year before, during an incident involving two youth residing in the room. On October 26, 2001, the Detention Center filed charges against the youth, alleging the youth had destroyed county property by deliberately setting off the sprinkler system, with the Union County Sheriff's Department, but there is no record that a work order was submitted for repairs to the sprinkler.

Almost four years after the facility's Superintendent notified the JJC that he had discontinued the practice of isolating residents during their first 24 hours post admission, seventeen months after the sprinkler head in room 714 was damaged, six months after a JDO reported the broken sprinkler head to the Buildings and Grounds Department, and nearly one month after New Jersey's Attorney General and the JJC's Executive Director ordered the immediate end to the detention center administration's practice of routine lockdowns and "splits," E.S. committed suicide while on twenty-four hour lockdown, in a room with a broken sprinkler head.

The county's persistent violation of applicable laws and JJC and Attorney General directives over several years, which suggests a fundamental disregard of basic human rights, led directly to the conditions that allowed E.S. to commit suicide on May 10, 2003.

Chronology

- January 6, 1998: Letter from JJC Executive Director Paul Donnelly to Michael Lapolla, the Union County Board of Freeholder's County Manager, regarding conditions at the facility:
 - Rodent infestation caused by youth eating meals in their rooms;
 - Youth were locked in their rooms for excessive periods of time, due to practice of "splitting" youth into groups and only permitting one group of youth out of their rooms at a time;
 - Facility routinely operates over capacity;
 - JJC requested that youth eat meals in dayroom and practice of eating in rooms discontinue, and that measures be taken to permit the youth more time out of their rooms.

- February 24, 1998: Response from the Union County Director of the Department of Human Services Frank Guzzo to Paul Donnelly, the JJC Executive Director, regarding improvements in conditions at the detention center:
 - Resident meals are served on the facility's main floor;
 - Steps have been taken to increase the amount of time youth are out of their room and to increase programming hours, but the county can not provide a specific timeframe for achieving its goal;
 - County has strategic plan in place to construct new facility and a short-term goal to address system issues that contribute to overcrowding.

- June 6, 2000: Letter from JJC Executive Director Bruce Stout to Frank Guzzo, the Union County Director of the Department of Human Services, advising the detention center to:
 - Discontinue the routine practice of isolating residents during their first 24 hours;
 - Discontinue practice of serving youth meals in their rooms;
 - Discontinue practice of "splits"- separating youth into groups and only allowing a group out of its room at a time;
 - Notify JJC's Compliance Monitoring Unit of all critical incidents as required by the Manual of Standards [The detention center failed to notify JJC of 3 suicide attempts between February and May 2000];
 - JJC ordered the detention center to submit a Corrective Action Plan within 30 days.

- November 8, 2000: Corrective Action Plan from Union County Detention Center Administrator Darrell Hatchett to Bill Burke, the JJC Supervisor of the Compliance Monitoring Unit:
 - Detention Center has discontinued practice of routinely isolating new residents during first 24 hours at facility;
 - Detention Center has discontinued its practice of serving meals to youth in their rooms;
 - All critical incident reports will be reported to the Compliance Monitoring Unit, as required.

- December 19, 2000: Letter from JJC Executive Director Bruce Stout to Daniel P. Sullivan, Chairman of the Union County Board of Freeholders:
 - JJC has learned that Union County might not proceed with plan to construct a new detention center facility
 - JJC has permitted the detention center to continue the practice of “splits” in the past because JJC believed the county was in process of constructing a new detention center;
 - JJC may consider imposing an admission cap on the facility.

- May 11, 2001: Letter from JJC Executive Director Bruce Stout to Frank Guzzo, Director of the Union County Department of Human Services
 - JJC’s Compliance Monitoring Unit conducted a Suicide Prevention Inspection training and the detention center identified two staff to be suicide prevention site coordinators;
 - The coordinators are responsible for conducting weekly suicide prevention inspections.

- July 19, 2001: *E.S. detained at Union County Juvenile Detention Center.*

- July 24, 2001: *E.S. released from detention and placed on juvenile probation in Union County.*

- October 26, 2001: *The Union County detention center filed charges against two youth occupying Room 714, alleging that they had damaged county property by deliberately setting off the sprinkler system in the room.*

- January 22, 2002: Letter from JJC Executive Director Howard Beyer to Lewis Mingo, the Union County Chairman of the Board of Chosen Freeholders:
 - JJC informs detention center that measures must be taken to discontinue its practice of “splits”;

- JJC requests progress report regarding plans for new facility.
- June 25, 2002: Letter from the Union County Director of the Department of Human Services Frank Guzzo to Howard Beyer, JJC Executive Director:
 - Union County Freeholders have funded Phases I and II of the new detention center facility; Phase III to be funded in late 2002 or early 2003.
- August 7, 2002: Letter from JJC Executive Director Howard Beyer to Lewis Mingo, the Union County Chairman of the Board of Chosen Freeholders:
 - Recent visit by JJC's Compliance Monitoring Unit noted the continued practice of "splits";
 - JJC noted new concern that all youth in the facility were being locked down due to insufficient staffing levels;
 - JJC may be forced to cap admissions at the facility due to the continued practice of "splits."
- November 15, 2002: *A juvenile detention officer completed a facility Juvenile Incident Report, noting that the sprinkler in Room 714 was missing its cover. The JDO forwarded his report to the Building and Grounds Department.*
- January 20, 2003: *E.S. detained at Union County Juvenile Detention Center*
- January 28, 2003: Letter from Attorney General David Samson and JJC Executive Director Howard Beyer to Deborah Scanlon, Chairwoman of the Union County Board of Freeholders:
 - Attorney General Samson met with members from the Union County Board of Freeholders in September 2002 to discuss unacceptable conditions at the detention center;
 - During a December 2002 visit, it was noted that lockdowns continue; the detention center continued its practice of "splits"; and youth continued to eat their meals in their rooms;
 - Conditions at the facility warrant a referral to the Department of Human Services' Institutional Abuse Investigation Unit to determine whether conditions at the facility meet abuse/neglect criteria;
 - Detention Center ordered to discontinue these practices;
 - County given 60 days to correct the violations or the detention center will immediately cease admitting juveniles.

- February 2, 2003: *E.S. released from Union County Juvenile Detention Center*
- March 3, 2003: *E.S. transported to Trinitas for a mental health screening after he made statements revealing suicidal ideation and disclosing that he had attempted suicide before.*
- March 10, 2003: *E.S. ordered by the court to continue out-patient counseling at Trinitas.*
- March 13, 2003: Corrective Action Plan, submitted by Frank Guzzo, Union County's Director of the Department of Human Services, to Howard Beyer, Executive Director of the JJC:
 - The Detention Center will discontinue its practice of "splits";
 - The Detention Center has hired 9 new workers;
 - The Detention Center will discontinue its practice of serving youth meals in their rooms;
 - The county is looking at land to construct a new facility.
- April 1, 2003: *During appointment with juvenile probation officer, E.S. made suicidal threats; his probation officer and mother transported E.S. to Trinitas; E.S. evaluated by a psychiatrist; E.S.'s probation officer and mother informed the psychiatrist that E.S. had threatened to harm himself and had done so in the past; the psychiatrist recommended that E.S. begin an outpatient drug program.*
- April 3, 2003: Letter from then Acting Attorney General Peter Harvey and JJC Executive Director Howard Beyer to Frank Guzzo, Director of the Union County Department of Human Services:
 - JJC accepted Union County's Corrective Action Plan, which was submitted to the JJC on March 13, 2003;
 - JJC will continue to monitor activities in Union County and if violations continue, JJC may order a cap on admissions without further notice;
 - JJC orders the immediate end to "splits", lockdowns, and serving youth meals in their rooms;
 - Detention Center Administrator Hatchett will rescind his policy directive that permitted a maximum of 45 youth on the main floor at any one time;
 - Union County must submit an Initial Report of steps taken to address the Corrective Action Plan by May 30, 2003;
 - Union County must submit reports on a quarterly basis thereafter.

- April 8, 2003: *E.S. attending Trinitas' substance abuse and psychiatric program.*
- April 24, 2003: *E.S. was terminated from Trinitas' program due to difficulties in complying with program rules.*
- May 7, 2003: *E.S.'s probation officer discussed in-patient drug program with E.S.*
- May 9, 2003: *E.S. failed to appear at his court date; the judge issued a bench warrant for his arrest.*
- May 9, 2003: *At approximately 11:30 p.m., E.S. was arrested by officers from the Elizabeth Police Department.*
- May 10, 2003: *At approximately 1:10 a.m., E.S. admitted to the Union County Detention Center; E.S.'s mother notified of his whereabouts at 1:35 a.m.; JDO conducting the Admission Intake noted his observations of E.S. on the Health Screening Record; the JDO indicated that E.S. did not appear to be suicidal [i.e. despondent, depressed, etc.]; E.S. apparently self-reported that he had never thought about or attempted suicide; E.S. placed on 24 hour lock down, only permitted out of his room for limited purposes.*
- May 10, 2003: *Early morning; E.S. assigned to Room 714; two other youth also residing in Room 714.*
- May 10, 2003: *At approximately 10 a.m., E.S. seen by facility's nurse for a medical examination.*
- May 10, 2003: *At approximately 10:45 a.m., E.S. returned to Room 714; his roommates were not in the room.*
- May 10, 2003: *Around noon, E.S.'s roommates returned to Room 714.*
- May 10, 2003: *At approximately 1:35 p.m., E.S.'s roommates permitted out of the room when their "split" was allowed out of the room; E.S. remained in Room 714 alone.*
- May 10, 2003: *At approximately 2:45 p.m., staff discovered E.S. hanging from the exposed sprinkler head in his room, Room 714.*
- May 15, 2003: *Letter from George Devanney, Union County's County Manager, to Howard Beyer, JJC Executive Director:*

- Union County ordered an immediate self-imposed cap on admissions to the Union County Detention Center;
- Union County began working expeditiously to identify and take actions to construct a new facility;
- Union County sought help in identifying bed space in other counties.

- May 23, 2003: Letter from JJC Executive Director Howard Beyer to Deborah Scanlon, Chairwoman of the Union County Board of Chosen Freeholders:
 - JJC concluded that Union County failed to fully and timely implement its March 13, 2003 Corrective Action Plan;
 - JJC ordered a cap on admissions at the Union County Detention Center;
 - Union County ordered to submit a Corrective Action Plan update by June 30, 2003 detailing each step taken to eliminate violations;
 - Union County ordered to submit updates on a monthly basis thereafter.